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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,452	04/12/2001	Randall Allen Vogel	AD6728 US NA	3330

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1787

NOTIFICATION DATE	DELIVERY MODE
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10/08/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

Office Action Summary	Application No. 09/833,452	Applicant(s) VOGEL ET AL.	
	Examiner Monique R. Jackson	Art Unit 1787	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6,43,54,55,57-60,66-68 and 83-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,43,54,55,57-60,66-68 and 83-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 9/1/10 has been entered.
2. The amendment filed 9/1/10 has been entered. It is noted that Claims 4, 7, 9, 11, 12, 14, 16-18, 20-21, 45, 47, and 49 are now listed as "Withdrawn" however the Examiner notes that these claims were previously cancelled prior to the appeal and should be listed as "Cancelled" not "Withdrawn". The only claims pending in the application as of the date of the amendment were 1, 3, 6, 43, 54, 55, 57-60, 66-72, 83 and 84. Claims 69-72 have now been cancelled by the 9/1/10 amendment and new claims 85 and 86 have been added.
3. Claims 1, 3, 6, 43, 54, 55, 57-60, 66-68, and 83-86 are now pending in the application and will be addressed below.

Priority

4. As another initial matter, the Examiner notes that the amendment to the claims adding the limitation "wherein the polymer surface is the interior surface or exterior surface selected from the group consisting of automotive part, appliance panel, and aviation application" into Claim 1 is supported by the original disclosure at the time of filing, 4/12/01, but is not supported by the

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provisional application 60/197,275 and hence the claims are not afforded the benefit of the earlier 4/14/00 filing date.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

6. As noted in the Examiner's Answer filed 4/2/08, Claims 43 and 60 of the prior claim listing included two minor errors as noted again below.

7. Claim 43 is objected to under 37 CFR 1.75(c), as being of improper dependent form because it depends upon claims 61 and 65 that have been cancelled. It is also noted that Claim 43 improperly depends from later claims however a dependent claim should only depend upon previous claims. Appropriate correction is required.

8. Claim 60 is objected to because of the following informalities: it is noted that the limitation "having a thickness of" was inadvertently removed from the pending claims (see 7/13/07 claim listing) by the Applicant in the listing filed with the appeal brief dated 1/16/08. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. Claims 1, 3, 6, 43, 54, 55, 57-60, 66-68, and 83-86 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "A polymer surface comprising a multilayer film or sheet wherein the polymer surface is **the interior or exterior surface** selected from the group consisting of automotive part, appliance panel, and aviation application" (emphasis added). It is first noted that the limitation lacks clear

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antecedent basis. It is also noted that the limitation appears to be unclear. Is the interior or exterior surface actually the automotive part, appliance panel, and "aviation application"? Or is the film an interior or exterior surface **of** an automotive part, appliance panel and "aviation application"? Further, it is unclear how an "aviation application" can be an interior or exterior surface or how an interior or exterior surface can be applied on an "aviation application", or was this portion of the limitation meant to recite that the surface is an interior or exterior surface of a part utilized in an aviation application?

10. Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 43 recites the limitation "[t]he polymer surface of claim 1, 3, 6, 54, 55, 57, 58, 59, 60, 61, 65, 66 or 67" however it is noted that Claims 61 and 65 are no longer pending in the application and hence it is unclear what is meant to be encompassed by the claim.

Claim Rejections - 35 USC § 102

11. Claims 1, 3, 6, 43, 54, 55, 57-60, 66-68, 83, 85, and 86 are rejected under 35 U.S.C. 102(e) as being anticipated by Domine et al (USPN 7,335,424, effective date 3/29/01 fully supported by provisional application.) Domine et al teaches a coextruded ionomer laminate comprising at least one layer of ionomer and at least one layer of an acid polymer that can be thermoformed with a plastic substrate such as polyolefin to form articles such as automotive parts, sporting equipment, appliances, aerospace reentry shields, translucent glass replacement and various other applications for coating plastics and metal where a highly glossy and scratch resistant surface is desirable (Entire document, particularly Abstract; Col. 12, line 45 - Col. 13, line 15.) Domine et al teaches that the coextruded ionomer laminate can comprise the same layer

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structure as instantly claimed including an outer ionomer layer, an adjacent ionomer layer, a substrate which may be polymer or metal, and additional intermediate or tie layers between the adjacent ionomer layer and the substrate that read upon the claimed third layer (Entire document particularly Col. 3; Col. 5, line 65-Col. 8, line 60; Figures; Col. 9, line 9-Col. 10, line 9.)

Domine et al teaches that one or more ionomer layers may contain additives such as those claimed including pigment, UV stabilizer, clarifiers, and antioxidant, wherein preferably the second ionomer layer a' (Fig. 3) is the one pigmented (hence, ionomer layer a is clear and a' is pigmented; Figure 3; Col. 5, lines 41-62; Col. 11, lines 39-43.) Domine et al teaches that the substrate may also fiberglass, wood, glass, etched glass, aluminum steel or other metal substrates (Col. 8, lines 41-44.) Domine et al teaches that it is desirable that the melt viscosity of each material to be extruded be closely matched to each other for high gloss and color compatibility (Col. 9, lines 1-7.) Domine et al also teaches that the ionomer layer or layers prior to thermoforming are from 13 to 1000 microns, with tie layers having comparable thickness making the overall thickness of the laminate from 0.1 mm to 5 mm (reads claimed thickness ranges; Col. 10, lines 6-17.) Domine et al teaches that the ionomer consists essentially of a copolymer derived from ethylene and α,β -ethylenically unsaturated C3 to C8 unsaturated carboxylic acids with partial neutralization with metal ions (Col. 3, line - Col. 4, line 64.)

12. Claims 1, 3, 6, 43, 54, 55, 57-60, 66-68, 83-86 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al for the reasons of record and generally recited below wherein Smith et al teaches that the laminate can be utilized for exterior automotive parts as well as in other applications which read upon the broadly claimed "appliance panel".

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13. Smith et al teaches an extruded automotive trim and a method of making the trim wherein a multilayer sheet is coextruded to include at least one color pigmented or metallizing particle layer and a top clear coat layer wherein the multilayer sheet may further include tie layer(s) which may be clear or include color pigment and/or metallizing particles and the clear coat layer may include multiple layers; wherein as taught in an example, the layers may be formed of ionomeric resins as instantly claimed and wherein the sheet is laminated to a substrate which may be provided with coloring (Abstract; Figures; Col. 7-10; Col. 14, line 47-Col. 15, line 34; Col. 16, line 49-Col. 18, line 16, wherein the ionomeric resins as claimed would inherently have "matched" flow properties.) Smith et al also teach that the sheet is thermoformable, that the substrate may be various polymers, that each of the trim products has a finished surface with a distinctness of image (DOI) of at least about 60 units, where 100 is the maximum DOI reading, and a gloss of at least about 60-65 at an angle of 20°; wherein Smith et al teach that the gloss and DOI of the final trim part can be increased or improved by polishing or plating working mold surfaces since the final product may come directly from the mold apparatus (Col. 11-12; Col. 17; Col. 19, lines 45-65; Col. 8, lines 55-67.) Smith et al further teach thickness ranges that read upon the claimed film thickness ranges (Col. 9; Col. 17, lines 22-Col. 18, line 16.)

14. Claims 1, 6, 43, 55, 57, 59, 67-68, and 83-84 are rejected under 35 U.S.C. 102(e) as being anticipated by Horansky (USPN 6,998,084, effective filing date of 2/16/01 wherein the prior application supports the below teachings of Horansky, see US 2002/0114965A1.) Horansky teaches a coextruded pigmented/clear coated polymer coating for an article such as automotive exterior body panels, airplanes and appliances wherein the coextruded coating can include a transparent top layer of ionomer, a semi-transparent pigmented layer of transparent ionomer, and

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an optional third coextruded layer below the pigmented layer that may be more opaque than the pigmented layer, and can be applied to a substrate such as a plastic substrate; wherein Horansky teaches thicknesses for the layers and overall coating that read upon the claimed thickness ranges (Entire document; particularly Col. 4-6; Col. 7, lines 5-10 and lines 43-47; Col. 8, line 30-51.)

Horansky teaches that the two-layer transparent coating can be formed on a substrate that is provided with an intermediate colored base coat and hence reads upon instant Claim 84 (Entire document; particularly Col. 5.) Horansky also teaches that the top clear layer can include pigments to give a slight tint to the layer (Col. 7, lines 43-53.) In terms of Claims 66-68, the Examiner takes the position that the coextruded polymers or ionomers taught by Horansky would inherently have “matched” flow properties as instantly claimed.

Claim Rejections - 35 USC § 103

15. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domine et al. The teachings of Domine et al are discussed above. Though Domine et al teaches various layer structures for the laminate film including translucent or clear films, various substrates to which the film can be applied including metal or polymer substrates, and various applications for use of the film and resulting composite articles including for automotive parts, appliances and aviation applications, Domine et al does not specifically teach that the metal or polymer substrate has a printed design or pattern upon which the clear multilayer film is applied. However, one having ordinary skill in the art at the time of the invention would have been motivated to provide any aesthetic design or pattern on the metal or polymer substrate taught by Domine et al, as is conventional in the art, based upon the desired end use of the coated substrate given the reasonable expectation of success.

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Response to Arguments

16. Applicant's arguments filed 9/1/10 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508.

The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Monique R Jackson/
Primary Examiner, Art Unit 1787
September 28, 2010